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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

LIBOR-Based Financial Instruments Antitrust Litigation.

This Document Applies to: All Cases

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ORDER

11 MD 2262 (NRB)

NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

This Order responds to defendants' letter of August 13, 2014 (ECF No. 590) and the OTC plaintiffs' responsive letter of August 20, 2014 (ECF No. 627). Having reviewed those letters, our decision in LIBOR III,[1] and previous filings cited by the parties, we hereby amend our decision in LIBOR III to clarify that the OTC plaintiffs' claims for breach of contract and unjust enrichment survive against Credit Suisse International ("CSI") but not against Credit Suisse Group AG ("CSGAG").

This clarification is appropriate because LIBOR III unambiguously held that claims against non-counterparty defendants, such as CSGAG, fail to meet the standing requirements of Article III. See slip op. at 67. However, we ambiguously listed "Credit Suisse" as a contracting defendant against whom the OTC plaintiffs had stated a claim. See id. at 57, 67. Had we been more precise, we would have stated that the

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[1] In re LIBOR-Based Fin. Instruments Antitrust Litig., No. 11-md-2262 (S.D.N.Y. June 23, 2014), ECF No. 568.

OTC plaintiffs' claims survive against CSI—and not against CSGAG—because the OTC plaintiffs alleged only that one of the OTC plaintiffs had contracted with CSI. See Second Cons. Am. Compl. ¶ 386, ECF No. 406.[2]

Dated: New York, New York
October 8, 2014

NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

[2] We note in passing that Texas Competitive Electric Holdings Company LLC ("TCEH"), the only OTC plaintiff to state a claim against CSI, Barclays or Citibank in the Second Consolidated Amended Complaint, has since petitioned for bankruptcy. See In re Tex. Competitive Elec. Holdings Co., Ch. 11 Case No. 14-10978 (Bankr. D. Del.) (filed Apr. 29, 2014). We are not aware of any activity in the Bankruptcy Court with respect to TCEH's claims, nor do we address, in the absence of submissions, whether this bankruptcy may affect TCEH's viability as a class representative.